

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANN MARIE ROSE BAKER, M.D.,	§	
PLAINTIFF,		
	§	
v.		CIVIL ACTION NO. 4:08-CV-1908
	§	
UNIVERSITY OF TEXAS. HEALTH	§	
SCIENCE CENTER - HOUSTON AND		
THE UNIVERSITY OF TEXAS SYSTEM	§	
MEDICAL FOUNDATION,		
DEFENDANTS	§	JURY TRIAL DEMANDED

DEFENDANTS' FIRST AMENDED ANSWER
TO PLAINTIFF'S FIRST AMENDED COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendants, University of Texas Health Science Center - Houston and the University of Texas Medical Foundation, file this answer to Plaintiff's First amended complaint. Defendants deny that Plaintiff is entitled to any relief and answer the specific allegations in the original complaint as follows:

- 1) Defendants admit the averments of paragraph 1.
- 2) Defendants admit the averments of paragraph 2.
- 3) Defendants admit the averments of paragraph 3.
- 4) Defendants deny the averments of paragraph 4.
- 5) Defendants admit the averments of paragraph 5.
- 6) Defendants admit Baker is an American citizen, but denies the remaining averments.
- 7) Defendants admit that the UT System Medical Foundation may be an employer, but

otherwise deny the averments of paragraph 7

- 8) Defendants admit that University of Texas Medical Foundation may be employer, but denies the remaining averments.
- 9) Defendants admit the averments of paragraph 9.
- 10) Defendants admit the averments of paragraph 10.
- 11) Defendants admit the averments of this paragraph 11 in part, but denies in part as the Handbook has more provisions than just those listed.
- 12) Defendants admit to the averments of paragraph 12.
- 13) Defendants deny the averments of paragraph 13 in that it incompletely describes the Defendants role and capacity.
- 14) Defendants deny the averments of paragraph 14.
- 15) Defendants deny the averments of paragraph 15.
- 16) Defendants admit the averments of paragraph 16.
- 17) Defendants admit the averments of paragraph 17.
- 18) Defendants deny the averments of paragraph 18.
- 19) Defendants admit in part the averments of paragraph 19. Defendants deny the footnoted material in that there is more to the disease process than listed.
- 20) Defendants deny the averments of paragraph 20.
- 21) Defendants deny the averments of paragraph 21.
- 22) Defendants deny the averments of paragraph 22.
- 23-25) Defendants lack sufficient information to admit the averments of paragraphs 23-25.
- 26) Defendants deny the averments of paragraph 26.
- 27-29) Defendants deny the averments of paragraph 27-31.

- 32-33) Defendants admit that this is what those particular sections of the law as quoted state.
- 34-43) Defendants deny the averments of paragraph 34 through 43.
- 44) Defendants admit first sentence. Defendants deny the remaining averments.
- 45-46) Defendants deny the averments of paragraph 45-46.

DEFENSES

- 1) Plaintiff's claims are barred as she has failed to state a claim for which relief can be granted.
- 2) Plaintiff's claims are barred by sovereign, Eleventh Amendment, qualified, and/or official immunities.
- 3) Plaintiff's claims are barred by the applicable statute of limitations, including but not limited to filing her lawsuit on a timely basis after received the notice of consent to sue.
- 4) Plaintiff claims are barred by failure to exhaust administrative remedies.
- 5) Plaintiff claims are barred in whole or in part, by res judicata, collateral estoppel, ratification waive, estoppel, unclean hands as well as Plaintiff's failure to mitigate
- 6) Plaintiffs further pleads the defenses provided by 42 USC § 12113 including but not limited business necessity undue hardship and protection of the health and safety of others.

WHEREFORE PREMISES CONSIDERED, Defendants request the court to deny Plaintiff all relief and to grant Defendants all relief in law or equity to which they are entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and forgoing document has been sent via certified mail, return receipt requested, on May 5th, 2009 to the following individual:

Anthony P. Griffin
A Griffin Lawyers
1115 Moody
Galveston, TX 77550

/s/ Sam Lively

SAM LIVELY
Assistant Attorney General